

Clarke County

PLANNING COMMISSION BRIEFING MEETING MINUTES TUESDAY, FEBRUARY 28, 2017



A briefing meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Tuesday, February 28, 2017.

ATTENDANCE

Present: Robina Bouffault; Randy Buckley; Anne Caldwell; Mary Daniel (arrived late); Scott Kreider; Douglas Kruhm (arrived late); Frank Lee; Gwendolyn Malone; Cliff Nelson; and Jon Turkel.

Absent: George L. Ohrstrom, II

Staff Present: Brandon Stidham, Planning Director

Others Present: Frank Stearns (Verizon Wireless); Cathy Kuehner (Winchester Star)

CALLED TO ORDER

Mr. Stidham called the meeting to order at 3:00PM.

AGENDA

Vice-Chair Caldwell asked if there were any changes to the agenda. Ms. Bouffault briefly reviewed a handout she provided showing area population estimates, noting that given the County's population and growth rate she did not expect there to be a stampede of new telecommunications tower applications in the future. Vice-Chair Caldwell added that cellular telephone providers are only looking for sites along major highways. Mr. Turkel noted that Frank Stearns said there is Federal funding for providers to bring service to rural areas and that is why it is important for the County to revise its telecommunications regulations to facilitate this service expansion. Vice-Chair Caldwell asked if these funds are grants to communities or incentives provided to private companies, and Mr. Turkel said that is funding for private sector efforts. Mr. Turkel added that the private-sector providers would look to spend this Federal funding in areas where the regulatory hurdles are lowest. Vice-Chair Caldwell asked if the funding is enough of an incentive for companies to expand. Mr. Stearns said that the Federal Communications Commission is pressuring the private sector to expand to underserved areas through its licensing authority. Mr. Turkel said that while the County does not necessarily have the population density to attract providers, there is hope that this Federal effort will help to expand service here.

The members approved the agenda by consensus as presented.

DISCUSSION, TELECOMMUNICATIONS SUBCOMMITTEE REPORT ON PROPOSED WIRELESS COMMUNICATION FACILITIES REGULATIONS TEXT AMENDMENT

Mr. Stidham began by reviewing the Summary of Major Proposed Changes document that describes how the text amendment differs from the current monopole regulations. With no questions from the members on the Summary, Mr. Stidham then reviewed the February 17, 2017 letter provided by Mr. Stearns that contains comments and suggested changes to the text amendment.

Regarding Mr. Stearns's concern with the term, "visible," in reference to considering existing "visible" WCFs when evaluating the visual impact of a new wireless communication facility (WCF) per 6-H-12-a, Mr. Stidham noted that Mr. Turkel had requested inclusion of this term. Mr. Turkel explained that the change was intended to emphasize that any existing WCFs in the area of a new proposed WCF that cannot be seen should not be counted against the applicant in evaluating the overall visual impact of the new WCF. Vice-Chair Caldwell added that there are two existing towers in the County now that you cannot see. Mr. Stearns suggested replacing "visible" with "not readily apparent" and the members accepted this recommended change.

Mr. Stearns had also expressed concern with the requirement that stealth silos must be placed within fifty feet of an existing barn or paddock, and Mr. Stidham asked for him to explain the concern in more detail. Mr. Stearns provided an example from another jurisdiction where a similar requirement prevented the equipment building from being designed as a barn, resulting in a lesser stealth design than the applicant proposed. Mr. Stidham asked if the 12 foot height limitation for equipment cabinets is problematic and Mr. Stearns replied that it is not.

Mr. Stidham asked Mr. Stearns to go into more detail regarding his concerns with the underground equipment requirement for flagpole stealth structures. Mr. Stearns said that he has not seen a provider install equipment underground primarily due to the heating and cooling requirements, and he has not encountered a locality requesting equipment to be installed underground. He added that flooding issues are problematic with underground installations. Mr. Stidham asked if equipment is typically installed away from flagpole stealth structures and Mr. Stearns replied yes, either in a nearby building or on a rooftop.

Following completion of the review of the letter, Mr. Stearns stated that he wanted to compliment the Commission on their foresight of addressing small cell regulations in accordance with legislation that was recently adopted by the General Assembly. Mr. Turkel thanked Mr. Stearns for his input throughout the process.

Mr. Stidham then moved to an overall discussion of the outstanding policy questions and other concerns that the members might have. Mr. Turkel asked whether the policy questions would be forwarded back to the Subcommittee for additional work. Mr. Stidham said that an additional Subcommittee meeting may not be necessary unless something arose in the legal review that requires significant changes. Ms. Bouffault said that she did not think another Subcommittee meeting would be needed and that the full Commission could address the policy questions. Ms. Bouffault asked whether the County Attorney's review would be limited to legal analysis or would it expand to the policy and technical elements. Mr. Stidham replied that he is only being asked to review the text amendment from a legal standpoint.

Vice-Chair Caldwell said that she had three major issues to discuss. The first issue is with the elimination of setback distances from sensitive properties and features in 6-H-12-a-5(a). Regarding setbacks from the river, she asked Mr. Stearns if a provider would ever consider placing a WCF in a 100 year floodplain. Mr. Stearns replied that these are not preferred because they are low-lying elevations and that a tower would only be sited in a floodplain if there was nowhere else to place it and serve a specific need. He added that the only floodplain installation that he is aware of involved placing the tower and equipment on 10 foot piers. Mr. Stidham said that a floodplain variance would be needed to construct a structure in the 100 year floodplain.

Vice-Chair Caldwell said that she is most concerned with the removal of additional setbacks from the Appalachian Trail and from eased properties. She noted that the Appalachian Trail provides a wilderness experience that could be damaged by the presence of a tower and its equipment sheds within the corridor. Mr. Turkel asked what the current maximum setback is and Mr. Stidham said 400% of the tower height. Mr. Turkel asked whether this should be the baseline setback for discussion or whether she had another number in mind, and Vice-Chair Caldwell replied that she did not have a specific setback distance in mind. Mr. Turkel said that perhaps the focus should be on a setback distance from the trail rather than a setback from parcels that compose the trail corridor. Ms. Bouffault suggested conducting a survey of trail users to determine whether they want to have good cell service while on the trail for safety purposes. Mr. Kreider noted that long-distance hikers do not have the ability to keep their phones charged and some carry emergency beacons if they run into trouble.

Vice-Chair Caldwell said that she remains concerned with the reduction in the setback from eased properties and Ms. Bouffault noted that she is aware of two easement property owners that would like to have towers locate on their property. Vice-Chair Caldwell said that she is not opposed to placement of towers on eased properties because the easement holder would have the greatest say in those situations. She said she is more concerned with towers going on non-eased properties located adjacent to eased properties. Mr. Turkel noted that providing a greater setback from eased properties gives eased property owners additional rights which may or may not be appropriate. He added that landscape buffering and other elements could better control impact of a new tower on eased properties.

Vice-Chair Caldwell stated that her next concern is with the reduction of the perimeter buffer depth from 120 feet to 25 feet. She said that 25 feet is not deep enough to provide sufficient screening for a tower compound regardless of what you plant in it. She said she envisions a larger perimeter buffer area to allow preservation of existing trees, and additional discretion would be allowed for the Commission to determine how much additional landscaping would be required on a case by case basis to provide sufficient screening. Mr. Stidham said that applicants need to know a baseline to plan their site, meaning it is more important to know the dimensions of the buffer area than what is required to be planted in it. Mr. Turkel asked if this would be for Class 1 and 2 towers since Class 3 and 4 towers would be addressed in the special use permit. Mr. Stidham replied that this would apply to Class 2, 3, and 4 towers. Vice-Chair Caldwell suggested making the buffer area 50 feet with preservation of existing trees and supplemental plantings on a case by case basis. Mr. Turkel asked where we got the 25 foot buffer width from and Mr. Stidham said that is the current buffer requirement for commercial uses. Mr. Stidham asked if the members would be comfortable with a total 50 foot buffer area with a

minimum 25 foot wide planted area closest to the compound fence, and the Commission would have the ability to require additional plantings in the remaining 25 feet on a case by case basis. Members agreed to this proposed change.

Regarding the Appalachian Trail setback, Mr. Turkel said that it might be a good idea to establish a setback based on percentage of height from the trail itself. Mr. Stidham asked whether the trail is located entirely on Federal property. Mr. Turkel said that it is either on Federal or PATC property. Mr. Stidham suggested that a 400 foot setback could be appropriate but also said that Staff could assemble a map showing how close private property comes to the bed of the trail to determine an appropriate setback.

Vice-Chair Caldwell said that her third issue deals with towers located on the ridgeline. Her concern is that a tower could be constructed just below rather than on top of the ridgeline and have the same adverse visual impact. Mr. Turkel asked whether she is specifically concerned with the Blue Ridge ridgeline and she replied yes because that is the ridge that is most visible. Mr. Turkel asked if the study provided any guidance regarding locating towers along the ridge and Mr. Stidham said that he would check. Vice-Chair Caldwell said that her concerns could be addressed if wording were added to keep towers from being visible above the tree line on top of the ridge. Mr. Stidham said that this could be verified pretty easily with a balloon test. Ms. Bouffault said that you need to make sure that the ordinance clearly applies to the Blue Ridge ridgeline. She also noted that WISP providers rely on line of sight to towers and that this needs to be taken into consideration. Mr. Nelson recommended using the term "topographic crest" to describe the Blue Ridge ridgeline most accurately. Mr. Stearns noted that Loudoun and Fauquier Counties dealt with this same issue. He added that if a new tower is not visible from the other side of the mountain, then you have accomplished your goal of preventing adverse visual impact along the Blue Ridge ridgeline.

Moving back to policy issues from the Stearns letter, Mr. Stidham asked whether the members would be comfortable adding the suggested fourth objective to 3-C-2-u-1(a). Mr. Turkel suggested adding "while maintaining the County's character" to the language, and members agreed to this addition. Mr. Kruhm asked how consistent this language is with the Telecommunications Study and Mr. Stidham replied that it should be OK.

Mr. Stidham asked whether silo stealth towers should be allowed as Class 3 WCFs up to 120 feet. Mr. Nelson asked whether there are any silos in the County that are over 80 feet and Mr. Stidham replied that he is not aware of any. Mr. Kruhm asked whether there is a prohibition on silos up to 120 feet and Mr. Stidham said he was not sure how height requirements apply to agricultural structures. Ms. Daniel asked for clarification that the Federal co-location law would apply in addition to the maximum height requirements specified in the text amendment. Mr. Stidham said yes and noted that the Federal co-location law would not require you to approve a co-location over 199 feet and require lighting. This would be a material change in the tower that is not covered by the co-location law. Ms. Daniel asked whether this would apply to stealth structures like stealth silos. Mr. Stidham and Mr. Stearns speculated that for a stealth silo structure, you would have to raise the silo dome so that all antennas could be contained within because attaching external antennas would be a material change. Regarding the issue of allowing stealth silos up to 120 feet, Mr. Stidham said that it is a matter of scale and whether taller silos would fit with the character of the County. Mr. Buckley noted that there is a

stealth silo in Rappahannock County that is clearly taller than a normal silo and obvious that it is not an agricultural silo. Mr. Stidham asked whether he thought it was a bad example and Mr. Buckley replied no and that it is better than a lattice tower in terms of appearance. He added that it does not adversely impact the viewshed but that it definitely appears to be a telephone structure. He said the structure is much taller and has a much smaller diameter than silos in the vicinity which makes it stick out more rather than blend in. Mr. Lee asked about the incentive to the provider to use a stealth silo. Mr. Buckley said he thought it was less expensive and Mr. Turkel said that property owners may prefer the design as a condition of leasing the site. Ms. Bouffault asked for clarification that you could construct a 199 foot WCF as a monopole and Mr. Stidham replied yes and that this is probably close to the maximum height from an engineering perspective. Mr. Turkel and Ms. Bouffault both said that they would be more comfortable with leaving the stealth silo design at a maximum of 80 feet plus the additional height for co-location under Federal law. Mr. Kreider noted that the requirement for having a stealth silo within 50 feet of a barn might be a problem. Mr. Stidham added that if an applicant cannot meet this requirement, then they would likely apply for a non-stealth structure. Vice-Chair Caldwell suggested removing the 50 foot requirement to address this concern and the members agreed.

Mr. Stidham asked about how to address landscaping and perimeter buffering requirements for stealth structures. Vice-Chair Caldwell said that we should go with the 50 foot perimeter buffer with 25 foot landscaped area and give the Commission authority to determine additional landscaping. Mr. Turkel replied that the question is only in regards to the stealth design structures which are different. Mr. Stidham suggested only requiring the perimeter buffer for tree stealth structures and the members agreed. Mr. Buckley asked if freestanding bell towers are allowed in the AOC District. Mr. Stidham replied that they would have to meet the requirements for accessory structures and that bell tower stealth structures would be regulated by the text amendment. Members also indicated that the underground equipment requirement for flagpole stealth structures could be removed.

Mr. Stidham asked about the setback of 100% of the WCF height from habitable structures. Mr. Turkel and Ms. Bouffault said they thought the fall zone setback would apply and Mr. Stidham said that the Subcommittee did not address it. Mr. Turkel recommended using the fall zone setback and the members agreed.

Mr. Stidham asked if there is any concern with the use of the term, "guidance," regarding locating WCFs in Permitted Commercial Tower Development Areas (PCTDAs). Members had no issues with retaining this wording.

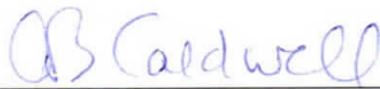
Mr. Stidham asked about allowing Class 3 WCFs in the Rural Residential (RR) and Neighborhood Commercial (CN) Districts. Ms. Bouffault said that she would prefer to be lenient on this issue and allow them. Mr. Stidham noted that these zoning districts are located in the core of Millwood and White Post and in Shenandoah Retreat. Ms. Bouffault said that there are existing water tanks in these areas for co-location so from a practical perspective it is unlikely that provider would want to site a tower there. Vice-Chair Caldwell said there is also the issue of Class 5 amateur radio towers in the Historic (H) District. Mr. Stidham noted that these areas are surrounded by multiple AOC-zoned properties, and members indicated that they were fine with the language as written.

Mr. Turkel asked about the 12 foot height requirement for equipment. Mr. Stidham said that he would make sure that this applies to equipment cabinets and not to buildings that house the equipment. He also noted that he will rewrite the site plan requirements for each WCF class to avoid being unnecessarily repetitive. He said if the County Attorney can complete his review soon, he will try to send out materials to the Commission for the April Briefing Meeting a little earlier. Mr. Kruhm asked whether "fall zone" would be moved to the definitions section and Mr. Stidham replied yes.

OTHER BUSINESS

Mr. Stidham gave a brief update on the status of the Hecate Energy solar farm project. He noted that they have proposed minor changes to the site plan that will impact the erosion and sediment control and stormwater management elements. He said that he is planning to address these changes administratively given the scope rather than bring the site plan back to the Commission and Board of Supervisors. Mr. Kreider asked if they have started work on the site and Mr. Stidham said that they have outstanding items in addition to the site plan changes that must be resolved before land disturbance and building permits can be issued. Vice-Chair Caldwell asked about the junk on the property and Mr. Stidham replied that this would have to be addressed during construction and before a certificate of occupancy can be issued.

The meeting was adjourned by consensus at 4:30PM.



Anne Caldwell (Vice-Chair)



Brandon Stidham, Planning Director